



WEST MIDLANDS
COMBINED AUTHORITY

Board Meeting

Date	7 April 2017
Report title	Health and Safety Governance Structure
Cabinet Member Portfolio Lead	Councillor Bob Sleight – Chair of the WMCA
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Report to be/has been considered by	WMCA Management Board WMCA Programme Board

Recommendation(s) for action or decision:

The Combined Authority Board is asked to:

1. Approve the Health and Safety Policy (Annex 1).
2. Approve the Delegation of Health and Safety responsibilities as set out in the scheme of delegation (Annex 2).
3. Task the Management Board with procuring an independent external review of the Health & Safety Management arrangements and with developing and implementing improvement plans to address any issues arising from that review.

1.0 Purpose

- 1.1 To provide an integrated structured framework throughout the Authority that can be defined and communicated to staff, Stakeholders and Partner organisations. The framework will provide a structure that facilitates the effective management of Health and Safety and provides the combined authority with assurance that regulatory compliance is being achieved across all business areas.
- 1.2 To provide a robust platform and effective management structure for the delivery of the Authority's Health and Safety Policy, aspirations and objectives.
- 1.3 To ensure no ambiguity exists relevant to accountability, responsibility, assurance and management of Health and Safety within the Authority.

2.0 Background

- 2.1 Following the significant changes associated with its formation the Authority needs to update the arrangements for Health and Safety inherited on its formation to reflect the changes that have arisen as a result of the creation of the CA and the new governance arrangements relating to the discharge of these legal obligations by the Authority and its Officers.
- 2.2 The Combined Authority should consider its arrangements for the management of Health and Safety in the following areas:
 - Provision of office based services and management of "head office" facilities
 - Management of bus network infrastructure (construction, maintenance) and operational support services.
 - Management of rail infrastructure (construction, maintenance) and operational support services activities.
 - Management of Metro infrastructure (construction, maintenance) and outsourced operations.

The Combined Authority's rail and metro activities take place in a Health and Safety environment regulated by the Office of Rail and Road to whom we are required to demonstrate our compliance with the law. The Office of Rail and Road can take enforcement action (by issue of improvement notices, prohibition notices and prosecuting) businesses and individuals where a breach of the applicable rail and tramway safety regulations has taken place.

Furthermore, as the role of the Combined Authority matures additional areas of (non-transport) responsibility will develop and the Combined Authority will need to ensure that it is prepared for and is able to meet the H&S requirements of these.

- 2.3 To ensure that we are able to comply with (and demonstrate our compliance with) our statutory duties and effectively discharge our obligations we are

required to update and re-structure organisational Health & Safety management systems to ensure effective management and compliance with the following:

- General legislative requirements relating to Health and Safety (i.e. Health & Safety at Work Act 1974 and associated regulations)
- Duties arising from such legislation
- Specific legislation and regulatory requirements arising from the functions and activities of the Combined Authority (e.g. Construction Design & Management Regulations, Construction & Use Regulations, Railways and Other Guided Transport Systems (Safety) Regulations, Electromagnetic Compatibility (EMC) Regulations)
- Metro enabling Acts and Orders (e.g. Midland Metro Act 1989, Tramways Act 1870, Swan Lane Crossing Order)

2.4 In response to this it is proposed that independent advice be sought on the future Health and Safety management structure with a focus on the effective transfer of responsibilities and authority to implement health and safety improvement actions from the accountable body (The Combined Authority) to the appropriate Officers and, where applicable, partner organisations. The Management Board will develop and implement plans for addressing any recommendations arising from this review.

2.5 A clearly defined and adequately resourced structure is essential to allow the Health and Safety priorities of the Combined Authority to be effectively communicated to staff, contractors and stakeholders and to actively encourage the engagement of these groups at all levels within the organisation. Safety is everyone's responsibility and as such the encouragement of a culture that empowers effective management of Health and Safety should be seen a primary objective of the Authority.

2.6 The Combined Authority Board is ultimately accountable for the health and safety impacts of the Combined Authority's activities.

Accordingly it is proposed that the **WMCA Board should:**

- Annually review and approve the Safety Policy for the WMCA. The proposed H&S policy for 2017/18 is appended at Annex 1
- Ensure that when approving budgets sufficient resource is allocated to meet H&S obligations
- Approve a scheme of delegation of statutory (H&S) functions, obligations and responsibilities. The proposed scheme of delegation is appended at Annex 2.
- Receive Assurance from the Management Board on compliance with H&S obligations

3.0 Impact on Delivery of Strategic Transport Plan

- 3.1 Failure to implement robust HSE management arrangements could result in a breach of duty leading to delay, disruption and additional cost in the delivery of network enhancements and in the delivery of operating services.

4.0 Financial implications

- 4.1 The cost of an independent review and report on the safety management arrangements of the Authority has been included within the 2017/18 budget.

5.0 Legal implications

- 5.1 Organisations have a legal duty to put in place suitable arrangements to manage for health and safety. Health and Safety law in Great Britain clearly sets out that the primary responsibility for managing risks to workers and the public who might be affected by work activity lies with the business or organisation that creates the risks in the first place. This applies whether the organisation is an employer, self-employed, service provider or a manufacturer or supplier of articles or substances for use at work. Whilst the primary responsibility sits with the business, workers also have a responsibility to care for their own health and safety and others who may be affected by their actions.

- 5.2 As an employer WMCA has a number of general health and safety duties embodied within legislation such as Health and Safety at Work Acts and secondary legislation arising therefrom. Under the Health and Safety at Work etc. Act 1974 (the HSW Act), you have to ensure, so far as is reasonably practicable, the health and safety of yourself and others who may be affected by what you do or do not do. It applies to all work activities and premises and everyone at work has responsibilities under it, including the self-employed. The Management of Health and Safety at Work Regulations 1999 also apply to every work activity and workplace and require all risks to be assessed and, where necessary, controlled. At a minimum an organisation should have processes and procedures required to meet legal requirements including:

- A written health and safety policy
- “suitable and sufficient” assessments of risks to employees, contractors, customer, partners and any others affected by your activities recording in writing
- Arrangements for the effective planning, organisation, control and monitoring and review of the preventive and protective measures arising from the risk assessments
- Access to competent health and safety advice
- Provide employees with information about risks in the workplace and how they are protected
- Instruction and training for employees
- Ensuring adequate supervision

- 5.3 In addition, as a transport authority, SRO for Bromsgrove Station and owner of the Metro there are a number of specific pieces of legislation in these fields that have Health and Safety implications. The Authority has obligations as

regards Metro safety under the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (“**ROGS**”) as regards safety systems, risk assessments and safety verification.

- 5.4 As the owner and employer on various construction and engineering projects, project based Health and Safety requirements are also relevant including Construction Design and Management Regulations and on site safety requirements.
- 5.5 The HSE provides clear guidance on planning to ensure health and safety arrangements are appropriate and work. It is clear that successful delivery of compliant health and safety regime can rarely be achieved by one-off interventions and requires a sustained and systematic approach to the area. The revisions suggested have been designed to ensure a full and complete corporate approach to health and safety across the CA as a whole.
- 5.6 The Authority complies with these requirements in part through codes and systems developed for specific risk areas (such as Bromsgrove station safety management system and ROGS compliant Metro systems), in addition to OHSAS 18001 accreditation for the occupational health and safety management system.
- 5.7 The existing health and safety structure has been identified as not meeting the requirements of the standard during a recent re-certification audit and therefore categorised as a non-conformance. At present re-accreditation to OHSAS 18001 standard cannot be achieved until this non-conformance has been addressed.
- 5.8 The view of the Health and Safety Manager that the independent review of the Health and Safety Management arrangements is necessary to ensure continued compliance with the above requirements is noted and given the importance of those systems to the Authority’s continued legislative compliance, Legal supports the recommendations made.

6.0 Equalities implications

- 6.1 It is not envisaged that the proposed changes would have any adverse impact on equalities.

7.0 Other implications

- 7.1 Adoption of the Health and Safety Policy and scheme of delegation will address immediate requirements to provide clarity of accountabilities and responsibilities to senior officers. .
- 7.2 Failure to implement clear and unambiguous Health and Safety arrangements could possibly lead to regulatory intervention e.g. Office of Rail and Road (ORR) or Health and Safety Executive (HSE).
- 7.3 The periodic independent external review / audit of health and safety management arrangements is good practice and will help to ensure that these arrangements remain current and reflect changing statutory, contractual requirements and political and public expectations.

7.4 Failure to address the non-conformance identified by the external accreditor relating to provision of a clearly defined Health and Safety Governance structure may result in loss of OHSAS 18001 accreditation.

7.5 Detailed Health and Safety arrangements for the each operational business area of the Authority would be embedded within management structures.

8.0 Schedule of background papers

8.1 WMCA Health and Safety Structure (Annex 3)

Annex 1

HEALTH & SAFETY POLICY

Health and Safety Policy

GENERAL

West Midlands Combined Authority (WMCA) recognises its responsibilities with regard to Health and Safety and takes due cognisance that health and safety is integral and important to its business objectives and as such is totally committed to ensuring the health and safety and welfare of our employees and others who could be affected by our activities or undertakings.

As an ethical organisation we aim to achieve high standards for health and safety management and will continue to pursue progressive improvements in health and safety performance. We will monitor our performance and review this statement, the organisation and arrangements in place on a regular basis to ensure our continued effectiveness.

OBJECTIVES

Our main health and safety objectives are:

- a. *to ensure compliance with all statutory requirements that are applicable to our activities*
- b. *to engender a positive safety culture throughout the organisation, where each employee recognises their responsibilities*
- c. *to support continual improvement in health and safety performance and safe working practices across the organisation and beyond by proactively engaging with partners and stakeholders*

CORE AIMS

- To ensure the effective identification, assessment and control of risk; establishing a detailed risk profile to assist with the management of health and safety
- To comply with, and where reasonably practicable, exceed the requirements and targets set by current legislation, as well as adapting to legislative changes to ensure continued compliance
- To monitor, evaluate and continuously improve our health and safety performance
- To provide and maintain a safe working environment for employees and the wider community
- To ensure the competence of all employees through selection, instruction, training and supervision
- To actively encourage the involvement of employees at all levels within the organisation
- To develop and lead a positive health and safety culture in which unsafe acts or conditions are unacceptable and ensuring the existence of an open environment where employees feel able to raise concerns without fear of recrimination
- To prevent or minimise the adverse impacts of our activities and services
- To provide a common framework for health and safety management at all levels within the organisation with clearly defined roles and responsibilities relevant to all employees
- To allocate appropriate resources to ensure the effective implementation of this policy
- To maintain appropriate systems of communication and consultation with our employees, stakeholders and partners and report regularly on our health and safety performance
- To establish realistic and challenging health and safety objectives
- To continually review this policy and health and safety management systems against organisational structure and activities to ensure their ongoing adequacy and effectiveness

The Core Aims detailed in this statement can only be achieved through proactive leadership, responsible management and ownership of health and safety by all employees throughout the organisation. They are reliant on everyone who works within the organisation taking personal and collective responsibility to achieve our shared aims and objectives.

These aims will not be confined to the organisation but will be made known to our partners, stakeholders, suppliers and contractors who we expect to share in this commitment.

Councillor Bob Sleigh

Chair, West Midlands Combined Authority

07 April 2017

Health & Safety Policy

PART 2: ORGANISATION & RESPONSIBILITIES

This section of the policy sets out the general responsibilities and duties of all employees, along with the additional responsibilities of various individuals, committees, departments and groups.

WMCA MANAGEMENT BOARD

Overall responsibility for Implementation of the Policy

Be aware of the overall responsibilities and liabilities imposed upon themselves, the organisation and its employees by Health and Safety legislation.

Delegate authority as stated to facilitate successful implementation and review of the policy at all levels.

Appoint a member of the Management Board as Director Responsible for Health & Safety

DIRECTOR RESPONSIBLE FOR HEALTH & SAFETY

Responsible for ensuring the Policy is implemented across all areas of the Authority

Ensure that when making decisions the Board takes account of the Authority's Health and Safety commitments as articulated in the policy statement.

Ensure the Management Board is kept informed of any significant safety, health and risk management issues.

CORPORATE SERVICES / TFWM BOARDS

Ensure strategic commitment and provision of the resources necessary to implement this policy successfully and to achieve the stated objectives.

Maintain responsibility for monitoring business activities to identify potential Health and Safety issues and for maintaining and improving standards.

Ensure that a suitable framework is implemented through which effective communication of Health and Safety information, policies and procedures can be made to all employees.

Ensure that Employees safety duties are incorporated within agreed Role Profiles

Ensure effective working relationships with statutory enforcing authorities responsible for Health and Safety.

Receive Assurance from Operational Directors / Heads of Departments on compliance with Health and Safety Policy commitments and statutory duties

HEALTH & SAFETY MANAGER / H&S DEPT

Keep abreast of developments in Health and Safety legislation and practices applicable to the organisation and ensure all relevant parties are aware of its implication and application.

Formulate policy to satisfy legal compliance, industry practice and organisational needs. Ensure effective communication of policy to management and employee safety representatives.

Identify and devise effective risk strategies and Health and Safety management systems to include provision of information, risk assessment and identification of suitable control measures for safe systems of work.

Conduct periodic inspections of premises/assets and working practices to ensure, so far as is reasonably practicable, that they are without risk to Health and Safety.

Take responsibility for requirements under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) and for the specification, collation and presentation of other statistics, designed to support Health and Safety activities.

Chairs SHE Committee meetings and provide relevant information to enable the Committee to effectively transact business.

Provide fair and impartial advice and support to all employees on Health and Safety matters.

SITE MANAGERS / DEPARTMENTAL HEADS

In particular they will ensure:

Managers, supervisors and others allocated specific duties in their area of control are aware of their responsibilities, given sufficient information, training and time to perform them and that their activities are co-ordinated and monitored.

Adequate arrangements for communication and consultation on health and safety matters between employees, managers and others who may visit or share the workplace are in place.

Suitable and sufficient site risk assessments are conducted, along with specific risk assessments where required, and any significant findings are brought to the attention of those who may be adversely affected.

Organisational Health and Safety standards are implemented locally and improvement programmes used to improve standards where practical.

Resource for capital projects, plant improvements and maintenance, ensuring that all applicable Health and Safety standards for these are met.

They promote an interest in and enthusiasm for Health and Safety matters and set a good personal example.

MANAGERS

In particular they will ensure:

All new employees under their control undergo induction training in a timely manner and fully understand and adhere to local safety arrangements and emergency procedures.

Accidents and incidents that occur within their area of responsibility are reported, investigated and recorded as detailed by organisational reporting procedures.

That employees under their control, plan, allocate and carry out work in such a way that Health and Safety is not compromised.

That employees under their control receive adequate supervision, instruction, information and training to enable them to work safely.

Their manager is kept apprised of any matters relevant to Health and Safety.

They promote an interest in and enthusiasm for Health and Safety matters and set a good personal example.

PROJECT MANAGERS / ASSET MANAGERS

In particular they will:

Ensure as part of any design and development process that full risk assessments are undertaken of both design risks and any residual operational risks, and for ensuring these are drawn to the attention of the relevant operational manager.

Be responsible, as appropriate, for the selection and appointment of suitably qualified Principal Designers/Designers in line with WMCA selection process.

Be responsible for the selection and appointment of Contractors in line with the WMCA Contractor Approval process.

Maintain properties, services and assets in a safe and healthy manner, keeping appropriate records in accordance with best practice and legislative requirements.

Organise and manage construction works in a safe, healthy and environmentally conscientious manner, and in accordance with all relevant legislation.

ALL EMPLOYEES

In particular they should:

Know and comply with all legal requirements, organisational policies and guidance relevant to their work, position, areas and responsibilities.

Know and comply with the procedures and instructions as regards the action to be taken in the event of serious or imminent danger.

Use any safe systems of work identified as necessary for the activity to be carried out, including the wearing of protective equipment as specified.

Co-operate with management in the maintenance, care, use, storage and wearing of any specified safety equipment including using the appropriate safety devices.

Report unsafe acts, conditions, or shortcomings that impact on Health and Safety to their manager.

Co-operate in the investigation of accidents and dangerous occurrences and the reporting of them.

Not knowingly use any defective work equipment and not bring into the workplace any article or substance that may present or constitute a hazard.

Be encouraged to promote ideas on the improvement of Health and Safety standards and also provide suitable suggestions for reduction in risks.

Not intentionally or recklessly interfere with, or misuse, anything provided in the interests of Health and Safety.

SAFETY REPRESENTATIVES

In particular they will:

Provide representation for both the employees they were appointed to represent, and the organisation, in any consultations with the Health and Safety Executive (HSE) or any other enforcing body.

Participate as a full and active member of the SHE Committee.

Actively encourage co-operation between employer and employee to ensure the promotion and development of essential measures to ensure the Health and Safety of employees.

Bring to their employers notice any unsafe acts, unhealthy conditions or working practices which have come to their attention.

Health & Safety Policy

Part 3

SHE STEERING COMMITTEE

Terms of Reference

OBJECTIVE

The objective of the Committee is to promote co-operation between management and employees in the development and implementation of measures to ensure the health, safety and welfare at work of employees and others.

The Committee will recommend and initiate activity, but the responsibility for implementation is that of relevant managers under the guidance of the Health and Safety Manager.

FUNCTIONS

- Monitoring of safety performance and recommending new measures and standards or the revision of existing measures.
- Presenting proposals for improvements, alterations or additions to health, safety and welfare matters.
- Consider general matters of health and safety, rather than the day to day safety matters that are addressed by line managers, in order to review lessons learned.

MEMBERSHIP

The core membership of the Committee is made up of representatives from all areas of the business activity and from all levels within the business and includes recognised Trade Union representation.

The membership will be determined by the Health and Safety Manager in conjunction with the Director Responsible for Health and Safety.

On occasion it may be necessary to co-opt specialist advisers as ex-officio members. This will occur when their attendance would prove beneficial in relation to specific issues to be discussed.

FREQUENCY OF MEETINGS

The Committee will meet on a bi-monthly basis but special meetings to address any specific issues may be called as _____ and _____ when _____ required.

[NOT PROTECTIVELY MARKED]

Annex 2

Scheme of Delegation

WMCA Management Board

The WMCA Management Board has responsibility to the WMCA Board for:

- Recommending an overarching Health & Safety policy for approval by the WMCA Board
- Appointing one of the Management Board's members as Director Responsible for Health and Safety
- Setting budgets ensuring sufficient resource is allocated to meet H&S obligations
- Receiving and approving plans for addressing recommendations for action following an independent review of H&S management arrangements
- Identifying the board member responsible for Health and safety
- Approving Key Safety Indicator targets and Safety Improvement Plans
- Receiving assurance from the operational directorates and corporate services on H&S Compliance
- Instigating strategic interventions to ensure H&S targets are met
- Establishing a scheme of delegation empowering Operational Directors to take responsibility for and manage H&S in their business areas.
- Ensuring Safety Responsibilities are clearly communicated to and appropriate training is given to senior officers.
- Establishing a Safety, Health and Environment Committee to review in detail the HSE performance of the WMCA and to direct the business units to take appropriate action to address any HSE performance shortfalls or improvement requirements.

Corporate Services Director

The Corporate Services Director is responsible for:

- Procuring an independent review of H&S management arrangements and developing / implementing plans for addressing any actions arising from the review.
- Developing and implementing strategies and procedures to meet the corporate H&S Policy applicable to the "head office" functions of the WMCA (including TfWM programme development. Policy & Strategy, Integrated Mobility teams) ;
- Preparing an annual safety assurance plan (as part of the annual Business Plan);

TfWM Operational Directors

The **TfWM Operational Directors** (MD TfWM, Director of Transport Services, Metro Director) have the day to day responsibility for the management of H&S in the provision of public transport services of the WMCA.

In particular the Operational Directors will:

- Establish H&S policies, strategies and procedures (Safety Management System(s)) that align with the Corporate H&S Policy and meet the specific legislative and regulatory requirements of their business sectors
- Discharge the WMCA statutory and regulatory duties relating to their business sectors
- Develop, implement and review an annual HSE management and improvement plan
- Develop budgets and secure the resources necessary to meet H&S requirements as set out in the annual plan.
- Review, Monitor and Report on the HSE performance of their business areas
- Implement robust risk based approach to management of their business activities (including asset management, change management
- Investigate and take reasonably practicable actions to address any issues arising from incidents, close calls, near misses or from any adverse change in risk or introduction of new hazards.
- Cooperate with and support the Corporate Services Director in the preparation and delivery of the H&S Assurance plan
- Consult and cooperate with staff, customers, other duty holders and stakeholders to ensure HSE requirements are identified, managed and discharged.

Non-Operational Directors / Heads of Service

Non-Operational Directors and Heads of Service across the Authority will ensure that they and their teams

- Comply with H&S policies, strategies and procedures and Safety Management Systems applicable to their business areas
- Support and promote a positive Health & Safety culture and initiatives aimed at improving the Health & Safety performance of the Authority
- Provide Health and Safety information in a timely and accurate manner
- Co-operate with the delivery of the H&S Assurance Plan